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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,734	01/17/2001	Paula Ann Johnson	J3509(C)	6621

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT PAPER NUMBER

1616

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,734

Applicant(s)

JOHNSON ET AL.

Examiner

Alton N. Pryor

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 and 4-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,4,7,8,10-12,15,18,21 and 23 is/are rejected.
- 7) ☐ Claim(s) 5,6,9,13,14,16,17,19,20,22 and 24-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- I. Rejection of claims 3,13,14 under 35 USC 103(a) as being unpatentable over Voss (US 3507796) and Franks et al (US 4145532) will not be maintained in light of amendment filed 4/19/06 for reason as follows. Claim 3 is cancelled. Voss does not teach or suggest a composition comprising less than 50% water or wherein the ratio of liquid components to water is 65:35 as recited in claims 13 and 14 respectively.
- II. Rejection of claims 1,4,7,8,10-12,15,18,21,23 under 35 USC 103(a) as being unpatentable over Voss (US 3507796) and Franks et al (US 4145532) will be maintained in light of amendment filed 4/19/06 for reason on record and reason as follows.
 - A. Applicant argues:
 1. Voss discloses detergents and, in addition, amine oxides which are solids at room temperature with dimethyldodecylamine oxide having the lowest m.p. of 132-133 degree C.
 2. Voss and Franks et al are non-analogous references since they disclose a different function and means for accomplishing their respective functions. For this reason, the combination of references is improper.
 3. Voss' compositions (e.g. mouthwash) use in excess of 70% water and therefore, would not be desirable as a deodorant; whereas,

subject compositions are formulated in organic solvents as the major component. See claims 13,14 and new claim 28.

B. Examiner argues:

1. Dimethyldodecylamine meets the limitation of the claims which requires the amine N to bare at least one N-substituent having C1-C10 terminal hydrocarbyl group. The two methyl groups of dimethyldodecylamine meets this requirement. Note the claims employ "comprising" language which allows for the inclusion of other detergents taught by Voss. Note claims do not define a state of matter requirement for the amine component. Therefore, dimethyldodecylamine meets the limitation the amine requirement for the invention.
2. Franks et al is only used here to support that amine oxides have the capability of functioning as solvents and based on Franks et al teaching it can be deduced that dimethyldodecylamine functions as a solvent. There is no other reason for employing Franks et al in office action. Note, Voss alone meets the limitations of the claims.
3. Mouthwash deodorizes the mouth. Therefore, Voss' mouthwash comprising in excess of 70% water serves as a

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deodorant. In the claims presently rejected the water limitations of claims 13,14, and 28 are not required.

III. Claim Objection

Claims 5,6,9,13,14,17,19,20,22,24-28 are objected to. The prior art does not teach or suggest the instant composition comprising 1) less than 50% water, 2) chelator salts of claim 5, and 3) a non-chlorinated propellant and an organic cationic bactericide.

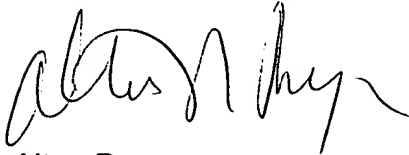
Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Alton Pryor', with a stylized flourish at the end.

Alton Pryor
Primary Examiner
AU 1616